

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Competitive Product Prices
Inbound E-Format Letter Post

Docket No. CP2020-120

ORDER GRANTING IN PART MOTION TO UNSEAL

(Issued June 17, 2020)

I. INTRODUCTION

On April 10, 2020, the Postal Service provided notice of specific per-item and per-kilogram self-declared rates that it intends to implement for Inbound Letter Post Small Packets and Bulky Letters on January 1, 2021.¹ During the course of the instant docket, the Association for Postal Commerce (PostCom) filed a motion to unseal non-public materials in Governors' Decision No. 19-1, which the Postal Service filed in support of its Notice.² In accordance with 39 U.S.C. § 504(g)(3) and 39 C.F.R. §§ 3011.104 and 3011.400, the Commission determines that it is not appropriate to

¹ Notice of the United States Postal Service of Specific Rates Not of General Applicability for Inbound E-Format Letter Post for 2021, and Application for Non-Public Treatment, April 10, 2020, at 1 (Notice).

² Motion of the Association for Postal Commerce to Unseal Nonpublic Materials, May 14, 2020 (Motion); see *also* Notice, Attachment 4.

accord non-public treatment to the cost coverage-related information contained in Governors' Decision No. 19-1, and that this redacted information should be unsealed.

II. PROCEDURAL HISTORY

On April 10, 2020, the Postal Service provided notice of specific per-item and per-kilogram self-declared rates for Inbound Letter Post Small Packets and Bulky Letters to be effective on January 1, 2021.³ In support of its Notice, the Postal Service filed Governors' Decision No. 19-1, as well as an application for non-public treatment of materials (Application) requesting, among other things, that redacted portions of the Governors' Decision No. 19-1 remain under seal. Notice at 4; *see id.* Attachments 1, 4.

On April 21, 2020, PostCom requested access to some of the non-public materials filed by the Postal Service in support of its Notice, including Governors' Decision No. 19-1.⁴ The Commission granted PostCom's access request on April 30, 2020.⁵ After PostCom's review of the non-public materials filed under seal, it filed a motion to unseal Governors' Decision No. 19-1. *See* Motion. On May 21, 2020, the Postal Service filed its response to the Motion.⁶

III. MATERIALS AT ISSUE

In the instant order, the Commission considers whether it is appropriate to unseal redacted portions of Governors' Decision No. 19-1 filed by the Postal Service in support of its Notice. *See* Notice, Attachment 4. Governors' Decision No. 19-1 contains two redactions. The first redaction addresses the Postal Service's internal, deliberative

³ Notice at 1. The self-declared rates were subsequently approved by the Commission. *See* Order Approving Prices for Inbound Letter Post Small Packets and Bulky Letters and Acknowledging Prices for Inbound Competitive International Registered Mail Service, May 8, 2020 (Order No. 5502).

⁴ *See* Motion of the Association for Postal Commerce for Access to Nonpublic Materials, April 21, 2020.

⁵ Order Granting Motions for Access to Non-Public Materials, April 30, 2020 (Order No. 5496).

⁶ Response of the United States Postal Service to Motion of PostCom to Unseal Non-Public Materials, May 21, 2020 (Postal Service Response).

processes for setting prices, and the second redaction relates to Inbound Letter Post Small Packets and Bulky Letters' cost coverage. *See generally* Notice, Attachment 4 at 2.

IV. SUMMARY OF ARGUMENTS

A. Postal Service's Application

The Postal Service asserts that the materials filed under seal with its Notice contain commercial information "that, under good business practice, would not be disclosed to the public." Notice, Attachment 1 at 1. The Postal Service argues that, pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4), the materials it filed under seal with its Notice are exempt from mandatory disclosure. *Id.* at 1-2.

The Postal Service claims that if the materials filed with the Notice are disclosed publicly, it is likely that it will suffer commercial harm. *Id.* at 4. The Postal Service identifies six potential commercial harms and provides one hypothetical illustrative example for each alleged commercial harm. *Id.* at 7-10. The Postal Service claims that three of these six alleged commercial harms will result only if the financial workpapers are disclosed. *See id.* In addition, one alleged commercial harm relates only to the disclosure of self-declared rates, while another alleged commercial harm relates to the disclosure of disaggregated revenues, volumes, and weights. *See id.* Accordingly, unsealing Governors' Decision No. 19-1 alone does not implicate these five alleged commercial harms described by the Postal Service.⁷

The remaining alleged commercial harm discusses potential commercial injury to the Postal Service if unredacted information were disclosed that allowed competitors to analyze data and determine what the Postal Service would have to charge its customers in order to meet minimum statutory obligations for cost coverage and

⁷ In the response, the Postal Service does not discuss these commercial harms, so it appears the Postal Service also finds them inapplicable to Governors' Decision No. 19-1. *See generally* Postal Service Response.

contribution to institutional costs. *Id.* at 8. The Postal Service posits that competitors could then set their own rates for similar products under the Postal Service's cost coverage threshold to "freeze" the Postal Service out of the market. *Id.*

B. PostCom Motion

PostCom contends the public interest related to the disclosure of the redacted information in Governors' Decision No. 19-1 outweighs any commercial harm to the Postal Service that would result from its disclosure. Motion at 4. It asserts that the Postal Service did not "expressly explain" why the redactions were "necessary in the Application [] accompanying the Notice." *Id.* at 1. PostCom further contends that the Postal Service's description of the commercially sensitive information that required redaction ("rates, volumes, weights, underlying costs and assumptions, pricing formulas, and cost coverage projections") "does not accurately represent the redacted information" found in the redactions. *Id.* at 2 (citing Notice, Attachment 1 at 4).

As it relates to the internal, deliberative process redaction, PostCom states that the Postal Service "has made no showing that public[ly] revealing this information would cause it commercial harm," thus in applying the required balancing test "almost any public interest in the disclosure of this information would outweigh the nature and extent of likely commercial injury to the Postal Service." *Id.* at 2; see 39 U.S.C. § 504(g)(3)(A). PostCom also maintains that the redacted information is not "information of a commercial nature" under 39 U.S.C. § 410(c)(2). Motion at 2; see 39 U.S.C. § 410(c)(2).

As it relates to the cost coverage-related redaction, PostCom states that the Postal Service "does not state specific levels of cost coverage that would enable a competitor to infer information about ... cost structure or provide a customer with information that it could use to bargain a better price" and thus asserts that such information requires no protection. Motion at 3, 4. PostCom notes that "it is common for the Commission and other commenters to publicly address" cost coverage. *Id.* at 3. It further notes that the Postal Service has not previously alleged any harm associated

with public statements related to cost coverage. *Id.* PostCom states that it is public knowledge that prior to the use of self-declared rates, the E-Format Inbound Letter Post mail failed to cover its costs. *Id.* As such, PostCom maintains that “whether the rates proposed in this docket meet statutory standards is undoubtedly of public interest.” *Id.* at 4. Additionally, PostCom states there is a “strong public interest in understanding the full basis for the Governors’ Decision approving the rates.” *Id.*

C. Postal Service Response

The Postal Service “respectfully urges” the Commission deny PostCom’s Motion for several reasons.⁸ As it relates to the sufficiency of its Application, the Postal Service maintains its Governors’ Decision No. 19-1 was among the materials covered by its Application and that it identified commercially sensitive information, including “underlying costs and assumptions” and “pricing formulas,” which are “considered confidential in the competitive business world.” Postal Service Response at 2. The Postal Service also notes that, by redacting “less than two and a half sentences,” the redactions were narrowly tailored “to protect only those few portions of the Governors’ Decision that would reveal the Postal Service’s internal deliberative bases for setting certain [] prices.” *Id.* at 2-3 (emphasis omitted).

The Postal Service contends that public disclosure of the redacted portions of Governors’ Decision No 19-1 would cause commercial harm. *Id.* at 2. The Postal Service states that unsealing the redacted material would expose “internal,”

⁸ Postal Service Response at 1, 5. The Postal Service also contends that PostCom did not use its access to non-public materials for an “authorized purpose,” *i.e.*, reviewing the Postal Service’s compliance with statutory and regulatory requirements in order to file comments, but instead used its access for a “different purpose,” *i.e.*, filing the Motion. *Id.* at 1, n.3; *see generally* Order No. 5496. The Postal Service notes “the Commission could deny the [] Motion pursuant to 39 C.F.R. § 3011.303(a)(5),” the Commission’s rules related to sanctions for violating protective conditions. Postal Service Response at 1, n.3; *see* 39 C.F.R. § 3011.303(a)(5). The Commission finds that nothing in its rules prevents interested parties from requesting access to non-public materials, and in the process of reviewing those materials, determining that the information should not be afforded non-public status and motioning for its public disclosure pursuant to 39 C.F.R. § 3011.400.

“deliberative information about the Postal Service’s strategies regarding the negotiation and pricing of competitive products.” *Id.* at 2, 4.

The Postal Service also notes “internal pricing processes, cost assumptions, and pricing formulas” that it uses “can, and do[], vary at different times and for different competitive products.”⁹ The Postal Service maintains that “open public access to [the] commercially sensitive information” contained in Governors’ Decision No. 19-1 falls within one of the hypothetical commercial harms described in its Application.¹⁰ It states that “if a competitor had th[is] type of information, and indeed also had such information over time as the Governors’ Decisions may change, then the competitor could analyze the data to determine what the Postal Service would have to charge its customers for cost coverage ...” and market their own products at “competitively advantageous levels,” commercially harming the Postal Service. Postal Service Response at 4.

With regard to the cost coverage redaction specifically, the Postal Service disagrees with PostCom’s assertion that no specific level of cost coverage was indicated, and states the material under seal “does provide details of the threshold that the Governors have established” within which senior management must work in setting prices. *Id.* at 3.

Finally, the Postal Service states that the redactions contained in Governors’ Decision No. 19-1 “would do nothing meaningfully to advance” one of the public interest concerns described by PostCom (*i.e.*, whether rates meet statutory standards). *Id.* at 4-5. Instead, the Postal Service states that disclosure of that portion of the redacted information, “especially when contrasted with other Governors’ [D]ecisions—would unnecessarily cause the Postal Service competitive harm.” *Id.* at 5.

⁹ *Id.* at 3. The Postal Service provides examples of past Governors’ Decisions, that when compared to Governors’ Decision No. 19-1, indicate how “variation of a threshold can impact the pricing floors and cost coverages” within which senior management must work in setting prices. *Id.* at 3-4.

¹⁰ *Id.*; Notice, Attachment 1 at 8. The Postal Service notes that, although the hypothetical mentions financial workpapers generally, “there is no question that the Postal Service’s [A]pplication also referred specifically to the Governors’ [D]ecision” and that the nature of harm is the same. Postal Service Response at 4, n.10; Notice, Attachment 1 at 8.

V. COMMISSION ANALYSIS

The question before the Commission is whether the Postal Service has fulfilled its burden of persuasion that the redacted portions of Governors' Decision No. 19-1 should be withheld from public disclosure. See 39 U.S.C. § 504(g)(3)(A). For the reasons discussed below, the Commission concludes that the Postal Service has not met its burden of persuasion for the cost coverage-related redaction in Governors' Decision No. 19-1 and that the public interest in maintaining the financial transparency of the Postal Service, a government establishment operating in commercial markets, outweighs the nature and extent of any likely commercial harm that may result from its disclosure. The Commission further finds that the likelihood of commercial harm averred by the Postal Service outweighs the public interest identified by PostCom with regard to unsealing the information related to the Postal Service's internal, deliberative processes for setting prices in Governors' Decision No. 19-1.

A. Legal Standard

The Postal Accountability and Enhancement Act of 2006 (PAEA)¹¹ sets forth both a mechanism for the Postal Service to seek non-public treatment of information that it provides to the Commission and the legal standard for the Commission to evaluate the degree of appropriate confidentiality to be accorded to such information. As a threshold matter, for the Postal Service to seek non-public treatment, the information must be of the type and nature eligible for non-public treatment.

The Postal Service has asserted two statutory provisions it claims support withholding the two redactions in Governors' Decision No. 19-1. Notice, Attachment 1 at 1-2. First, 39 U.S.C. § 410(c)(2) provides that the Postal Service shall not be required to disclose "information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good

¹¹ Pub. L. 109-435, 120 Stat. 3198 (2006).

business practice would not be publicly disclosed.”¹² Second, the Freedom of Information Act (FOIA) exempts from public disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential[.]” 5 U.S.C. § 552(b)(4).

After the Postal Service has identified its basis for seeking non-public treatment of the materials that it provides to the Commission, the PAEA also establishes the Commission’s specific authority as it relates to the information that the Postal Service claims to be non-public. Information filed in this proceeding and claimed by the Postal Service to be non-public shall be treated subject to the procedures of 39 U.S.C. § 504(g)(2) and (3). The Commission is not prohibited from publicly disclosing such information as long as two conditions are met. 39 U.S.C. § 504(g)(3)(A). First, the Commission must have engaged in a rulemaking to “establish a procedure for according appropriate confidentiality to information identified by the Postal Service [as non-public].”¹³ Second, in determining the appropriate degree of confidentiality to be given to information alleged by the Postal Service to be non-public, the Commission must “balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government

¹² 39 U.S.C. § 410(c)(2). The Postal Service also cites 5 U.S.C. § 552(b)(3), which exempts from public disclosure information that is specifically exempted by another statutory provision, such as 39 U.S.C. § 410(c)(2). Notice, Attachment 1 at 1-2.

¹³ 39 U.S.C. § 504(g)(3)(A). In 2009, the Commission satisfied this condition when it established procedures for treatment of materials filed by the Postal Service and claimed to be non-public. Docket No. RM2008-1, Final Rule Establishing Appropriate Confidentiality Procedures, June 19, 2009 (Order No. 225) (now codified at 39 C.F.R. pt. 3011). In 2018, these procedures underwent revision through a notice-and-comment rulemaking. See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018 (Order No. 4679) (now codified at 39 C.F.R. pt. 3011).

establishment competing in commercial markets.”¹⁴

Whenever non-public materials are provided to the Commission, an application for non-public treatment must also be provided. 39 C.F.R. § 3011.200(a). In addition to demonstrating that the materials designated as non-public contain information of a type and nature eligible for non-public treatment, the application must contain all of the information and arguments to fulfill the burden of persuasion that the materials should be withheld from the public. 39 C.F.R. § 3011.201(a). The application must include a “specific and detailed statement” containing, among other things, “[p]articular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.”¹⁵ The Commission preliminarily treats those

¹⁴ 39 U.S.C. § 504(g)(3)(A). As it relates to transparency, the PAEA significantly changed the regulation of the Postal Service, which included increased transparency and accountability by enhancing the authority and responsibilities of the Commission. See, e.g., 39 U.S.C. §§ 3622, 3652, 3653, 3662. Although there was no committee or conference report issued for the version of the bill that was enacted into law, the legislative history underlying the PAEA confirms that enhanced transparency was a key motivation in the enactment of postal reform. For example, both the committee report accompanying S. 2468, the Senate’s 2004 postal reform bill, and the committee report accompanying H.R. 22, the House of Representatives’ 2005 postal reform bill, noted that enhanced transparency and accountability were essential aspects of postal reform. S. Rep. No. 108-318, at 5 (2004), available at: <https://www.congress.gov/108/crpt/srpt318/CRPT-108srpt318.pdf>; H.R. Rep. No. 109-66, part 1 at 43 (2005), available at: <https://www.congress.gov/109/crpt/hrpt66/CRPT-109hrpt66-pt1.pdf>. Both reports emphasized that transparency is necessary to ensure fair treatment of Postal Service customers and its competitors. S. Rep. No. 108-318 at 5; H.R. Rep. No. 109-66 at 46. Consistent with Congress’s intent to enhance accountability through increased transparency, the PAEA grants the Commission authority to disclose materials identified as non-public by the Postal Service. 39 U.S.C. § 504(g)(3).

¹⁵ 39 C.F.R. § 3011.201(b)(4). PostCom maintains that the redacted information in Governors’ Decision No. 19-1 was not adequately discussed in the Postal Service’s Application. Motion at 2; see *id.* (citing Notice, Attachment 1 at 4). In its response, the Postal Service maintains that “open public access to [the] commercially sensitive information” contained in Governors’ Decision No. 19-1 falls within one of the hypothetical commercial harms described in its Application. Postal Service Response at 4; Notice, Attachment 1 at 8. The Postal Service notes that, although the hypothetical mentions financial workpapers generally, “there is no question that the Postal Service’s [A]pplication also referred specifically to the Governors’ [D]ecision” and that the nature of harm is the same. Postal Service Response at 4, n.10; Notice, Attachment 1 at 8. The Commission finds that the Postal Service’s Application sufficiently incorporates Governors’ Decision No. 19-1. The Postal Service notes Governors’ Decision No. 19-1 was filed under seal pursuant to its Application both in its Notice and in the Application itself. See Notice at 4; Attachment 1 at 3. In addition, the Postal Service provides an example of one hypothetical that illustrates a potential commercial harm associated with disclosing the redacted information contained in Governors’ Decision No. 19-1.

designated materials, and the information contained therein, as non-public.¹⁶ The Commission's long-standing practice is that it does not *accept* any rationale for non-public treatment given in the application for non-public treatment unless the Commission makes a determination of non-public status, which may occur in response to a motion by an interested person or *sua sponte*. See Order No. 4679 at 11.

Section 3011.104(a) incorporates the standard the Commission must apply when deciding whether to publicly disclose materials claimed by the Postal Service to contain non-public information from 39 U.S.C. § 504(g)(3)(A): "the Commission shall balance the nature and extent of the likely commercial injury identified by the Postal Service against the public interest in maintaining the financial transparency of a government entity competing in commercial markets." 39 C.F.R. § 3011.104(a). The application of this balancing test varies on a case-by-case basis based on the materials at issue and the commercial harms and public interest alleged by interested parties. It is important to note that, in applying the balancing test, the Commission undertakes a highly fact-specific analysis of the public interest in maintaining the financial transparency of a government entity competing in commercial markets and weighs it against the nature and extent of any likely commercial injury to the Postal Service from its disclosure. In this instance, the Commission's balancing focuses on the commercial harm and public interest concerns associated with the two redactions in Governors' Decision No. 19-1. This requires the Commission to evaluate the likelihood of the potential commercial harm identified by the Postal Service and weigh that against the public interest concerns described by PostCom, as it relates to Governors' Decision No. 19-1.

In the sections that follow, the Commission first applies the balancing test to the redaction related to the Postal Service's internal, deliberative processes for setting prices, and then applies the balancing test to the redaction related to cost coverage.

¹⁶ 39 C.F.R. § 3011.102(a). This is consistent with the Commission's long-standing practice under former § 3007.23. See Order No. 4679 at 11.

B. Redaction Related to the Postal Service's Internal, Deliberative Processes for Setting Prices

As it relates to the disclosure of the Postal Service's internal, deliberative processes for setting prices described in Governors' Decision No. 19-1, the Postal Service contends that unsealing the redacted material would expose "internal," "deliberative information about the Postal Service's strategies regarding the negotiation and pricing of competitive products." Postal Service Response at 2, 4. The Postal Service asserts that by disclosing the redacted information, "competitors would gain insight into Governors' internal deliberations over how Postal Service management should negotiate contracts and how those deliberations have changed over time." *Id.* at 4. The Postal Service argues that "the only non-public information now at issue pertains to how the Postal Service Governors reached those competitive prices." *Id.* at 3. The Postal Service maintains that "it does not have access to its competitors' similar information" and that competitors, customers, and the public's open access to such commercially sensitive information "harms the Postal Service commercially, and unfairly." *Id.* at 4.

PostCom asserts that the Postal Service failed to meet its burden to show that commercial harm will arise as a result of releasing this information, and therefore claims "almost any public interest in the disclosure of this information would outweigh the nature and extent of likely commercial injury to the Postal Service for disclosure, as that harm is nonexistent." Motion at 2. PostCom also states that "there is a strong public interest in understanding the full basis for the Governors' Decision approving the rates," and that "[t]he rates for Inbound Letter Post, the [Universal Postal Union] UPU's impact on those rates, and the ability of those rates to cover their attributable costs . . . are matters of significant public interest." *Id.* at 4.

The balancing test requires the Commission to weigh the nature and extent of the likely commercial harm to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). Here, the first redaction of Governors'

Decision No. 19-1 describes the Postal Service's internal, deliberative processes for approving prices. As the Postal Service explains, "competitors would gain insight into Governors' internal deliberations over how Postal Service management should negotiate contracts and how those deliberations have changed over time." Postal Service Response at 4. Additionally, it is possible that information pertaining to how the Postal Service Governors instruct management to set competitive prices could be used against the Postal Service by competitors or customers, potentially causing commercial harm. See *generally id.* Although the risk of commercial harm from the disclosure of this information is not particularly high, the Commission does find that disclosure of such information poses a risk of commercial harm to the Postal Service.

On the other side of the balancing test, the Commission is unable to find that there is public interest in unsealing the first redaction. Although the Commission agrees with PostCom's contention that there is importance in understanding the full basis of any Governors' Decision, it is unclear how the disclosure of the redacted information would further that particular public interest. Furthermore, PostCom's public interest discussion in its Motion relates mainly to the self-declared rates and the importance of knowing whether those rates have the ability to cover costs in compliance with 39 U.S.C. § 3633. See *generally* Motion. These public interest concerns are wholly unrelated to Postal Service's first redaction.

For these reasons, the Commission finds that the likelihood of commercial harm (although relatively small) outweighs the public interest identified by PostCom in unsealing this information. Therefore, in this case, the Commission finds that the first redaction should remain under seal.

C. Redaction Related to Cost Coverage

As it relates to the disclosure of the cost coverage-related information as described in Governors' Decision No. 19-1, the Postal Service states that disclosure of cost coverage-related redacted information, "especially when contrasted with other Governors' [D]ecisions—would unnecessarily cause the Postal Service competitive

harm.” Postal Service Response at 5. It maintains that the competitive harm in this instance “should be considered in the context of other Governors’ Decisions, past and future” because “internal pricing processes, cost assumptions, and pricing formulas” the Postal Service uses “can, and do[], vary at different times and for different competitive products.” *Id.* at 3. It states that “if a competitor had th[is] type of information, and indeed also had such information over time as the Governors’ Decisions may change, then the competitor could analyze the data to determine what the Postal Service would have to charge its customers for cost coverage” and market their own products at “competitively advantageous levels,” commercially harming the Postal Service. *Id.* at 4. The Postal Service also maintains that the redactions contained in Governors’ Decision No. 19-1 “would do nothing meaningfully to advance” the public interest described by PostCom. *Id.* at 4-5.

With regard to commercial harm, PostCom asserts that “the redacted information does not state specific levels of cost coverage that would enable a competitor to infer information about the Postal Service’s cost structure or provide a customer with information it could use to bargain a better price.” Motion at 3. On the other side of the balancing, PostCom maintains that “whether rates proposed in this docket meet statutory standards is undoubtedly of public interest.” *Id.* at 4. PostCom states that prior to the use of self-declared rates, E-Format Inbound Letter Post mail failed to cover its costs, implying a heightened public interest in commenters being able to assess cost coverage in this particular instance. *Id.* at 3. PostCom notes that not only is it “common for the Commission and other commenters to public[ly] address” cost coverage, but the Postal Service has never alleged any harm associated with those types of public statements. *Id.* In addition, PostCom contends that because the Postal Service “does not state specific levels of cost coverage,” the information requires no protection. *Id.*

As noted above, the balancing test requires the Commission to balance the nature and extent of the likely commercial harm to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). Here, the second

redaction in Governors' Decision No. 19-1 includes a specific cost coverage threshold for which there is a widely and publicly known statutory requirement. Given the widely known and public nature of this requirement, the Commission finds there is unlikely to be commercial harm to the Postal Service if this redaction is unsealed. The Commission acknowledges that, under different circumstances, commercial harm could possibly be shown to arise (e.g., if the redaction contained a pricing formula or detailed pricing directive). See Postal Service Response at 3-4. However, the specific circumstances in the instant docket do not indicate a potential for the kind of commercial harm described by the Postal Service. The nature of the redacted information in this instance alludes to a publicly known statutory requirement.

The Commission has previously discussed the public interest in providing information related to this product's financial performance, given the poor financial performance of its predecessor product for over 20 years.¹⁷ The Commission agrees with PostCom's contention that it is important to know whether proposed rates will cover costs and meet the statutory standards of 39 U.S.C. § 3633(a)(2). Indeed, that importance is exhibited in each Commission review of proposed competitive product rates where it analyzes a product's cost coverage in order to determine compliance with statutory standards. As such, the Commission finds there is public interest in knowing whether a product will cover its cost, thereby complying with statutory standards. The disclosure of the redacted information supports this public interest because it demonstrates the Board of Governors' intent to set prices that comply with statutory standards.

For these reasons, the Commission finds that the Postal Service did not meet its burden of persuasion to demonstrate that the cost coverage-related redaction should be withheld from the public and concludes that the public interest in maintaining the

¹⁷ Final Determination to Unseal Self-Declared Rates for Inbound Letter Post Small Packets and Bulky Letters, June 3, 2020, at 14-15 (Order No. 5527); Docket Nos. MC2019-17 and CP2019-155, Final Determination to Unseal Self-Declared Rates for Inbound Letter Post Small Packets and Bulky Letters, March 9, 2020, at 22-23 (Order No. 5451).

financial transparency of the Postal Service outweighs the commercial harm associated with disclosure of the cost coverage-related redaction in Governors' Decision No. 19-1.

D. Conclusion

For the above reasons, the Commission determines that it is not appropriate to accord non-public treatment to the cost coverage-related redaction in Governors' Decision No. 19-1. The Commission finds that the Postal Service did not meet its burden of persuasion to demonstrate that the cost coverage-related redaction should be withheld from the public. The public interest in maintaining the financial transparency of the Postal Service, a government establishment operating in commercial markets, outweighs the nature and extent of any likely commercial harm that may result from public disclosure of the information. In addition, the Commission reiterates that its findings are based on the nature of the redacted information specific to Governors' Decision No. 19-1 and the particular arguments presented by both the Postal Service and PostCom in the instant docket. With regard to the redaction related to the Postal Service's internal, deliberative processes for setting prices, the Commission finds that the likelihood of commercial harm (although relatively small) outweighs the public interest identified by PostCom in unsealing this information. Therefore, in this case, the Commission finds that the first redaction should remain under seal.

The Postal Service shall publicly file a revised version of Governors' Decision No. 19-1 in the instant docket, with the cost coverage-related information unredacted, within 7 days after the issuance of this Order. Additionally, for all future filings of Governors' Decision No. 19-1, the Postal Service shall submit a public version with the cost coverage-related information unredacted.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Motion of the Association for Postal Commerce to Unseal Nonpublic Materials, filed on May 14, 2020, is granted in part, as the Commission determines that the cost coverage-related information redacted from Governors' Decision No. 19-1 should be unsealed.
2. The Postal Service shall publicly file a revised version of Governors' Decision No. 19-1, with the cost coverage-related information unredacted, within 7 days after the issuance of this Order.
3. The Postal Service shall, for all future filings of Governors' Decision No. 19-1, submit a public version of Governors' Decision No. 19-1 with the cost coverage-related information unredacted.

By the Commission.

Erica A. Barker
Secretary